



STATE OF WASHINGTON
DEPARTMENT OF COMMUNITY,
TRADE AND ECONOMIC DEVELOPMENT

Office of Manufactured Housing

ESHB 1640: Manufactured/Mobile Home Landlord-Tenant Disputes

Report to the Legislature
December 2005

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I. EXECUTIVE SUMMARY

The Manufactured/Mobile Home Landlord-Tenant Act, Chapter 59.20 RCW, governs the relationship between homeowners who reside in a community and the landowner who leases space to the homeowner. Other than health and sanitation violations that may be enforced by local health jurisdictions, tenants seeking relief under this Act must do so through the legal system.

The Office of Manufactured Housing (OMH), within the Housing Division, Department of Community, Trade and Economic Development (CTED), has, among its duties, an Ombudsman service for assisting in the resolution of disputes between manufactured housing community residents and owners.

On May 13, 2005, ESHB 1640 went into effect. It expires on December 31, 2005. The Act temporarily expanded OMH complaint investigation and mediation resources and duties: CTED was authorized to add staff to respond in greater depth to more disputes and allegations of unfair practices and violations of the Act. The legislation required CTED to register manufactured housing communities and to compile a listing of manufactured housing communities, the number of lots in each community, and their owners. CTED was also directed to collect and submit data on complaints and outcomes of conflict resolution efforts. This information was to be presented to the Legislature by December 31, 2005, along with recommendations for further action. This report fulfills this requirement.

This report provides statistics about manufactured housing communities (also known as parks), the parks that have registered with CTED as required, the number of requests for assistance received, and the outcome of investigation and mediation efforts.

Key Statistics as of November 30, 2005*

Estimated total parks	2,106
Number of parks registered with CTED	1,175 (56 percent)
Average spaces/lots per park	47
Number of requests for service received May 13 – November 30	545
Investigations pending required notification	360
Complaints received May 13 – November 30	172
Issues reported by complainants	709
Number of communities associated with complaints	91
Complaint investigations underway	41
Complaint investigations closed	144
Complaints resolved or partially resolved	24

* Data collected December 1– December 31, 2005 will be reported January 10, 2006.

Implementation of the requirements of ESHB 1640 proved challenging. However, as a result of the new requirements and resources, Washington State now has:

- A more complete and accurate listing of manufactured housing communities
- The first ever listing of the number of lots within these parks
- Improved complaint data collection and reporting systems
- A better automated telephone system for accepting complaints, featuring simplified and shortened instructions and Spanish-language options
- New procedures for monitoring and responding to requests for assistance
- Written material available in Spanish
- Stronger relationships with stakeholders, built as they assisted with implementation efforts

This report contains brief reviews of manufactured housing community landlord-tenant act enforcement programs in the states of Nevada, Florida, and Michigan. It also includes an outline of components of an administrative enforcement function. These functions are funding, registration, outreach and notification, mediation, investigation, determination of violation, notification of violation and timeline for correction, opportunity for appeal, and imposition of penalties. Mandatory training requirements are a separate, but related, form of regulating the industry to encourage voluntary compliance with the law.

A. Recommendations for Legislative Action in 2006

- The Legislature should permanently reinstate the requirement established in ESHB 1640 that manufactured housing communities register with CTED, and post notification about rights and how to register complaints.
- Landlords and tenants should have the right to file complaints with OMH. To assuage fears of retaliation and provide for more timely responses, they should be encouraged but not required to notify the other party before filing a complaint. As was the case under ESHB 1640, all parties should be required to cooperate in complaint investigations.
- A stable source of revenue, such as a fee per lot as established in ESHB 1640, is necessary in order to support dispute resolution services. The five-dollar per lot fee assessed under ESHB 1640 should be reinstated in order to support the basic levels of service required to meet the demand for dispute resolution services, without draining other resources needed for essential related programs, such as assistance with relocation when a manufactured housing community closes.
- The Legislature should modify the late fees for parks that have not registered according to law in order to create a true incentive for prompt registration.
- Based on complaint statistics and recommendations of stakeholders, a number of ambiguous provisions of RCW 59.20 should be clarified to reduce the opportunity for disputes arising from differences in interpretation.

- The OMH Ombudsman Program should be amended to clarify dispute resolution functions, continue to register parks, and collect complaint statistics. Additional data will help clarify whether enhanced resources and administrative enforcement are needed in the future.
- No administrative enforcement should be adopted at this time. Although the volume of complaints clearly demonstrates the demand for state assistance, particularly as reflected in the number of unresolved complaints, CTED believes that dispute resolution services can resolve many of these complaints without formal enforcement.

II. BACKGROUND AND OVERVIEW

A. RCW 59.20 Manufactured/Mobile Home Landlord-Tenant Act

Washington is one of 36 states that have a specific section of law dealing with manufactured/mobile home landlord-tenant issues.¹ The Manufactured/Mobile Home Landlord-Tenant Act (Act), RCW 59.20, was enacted in 1977.

The Act applies to factory-built single-family dwellings, called manufactured homes or, if built before 1976, mobile homes. Under certain circumstances, a recreational vehicle (RV) being used as a permanent home is also covered by the Act.

The Act applies only to situations where a manufactured home owner – the tenant – rents a lot space for their home in a manufactured housing community or park. The owner of the community is the landlord. Where the manufactured home itself is rented, the residential landlord-tenant act (RCW 59.18) applies.²

Manufactured housing communities are defined to include most situations in which a landowner rents lot space to two or more manufactured home owners. However, the Act doesn't cover situations, such as farm worker housing, where an employer provides a manufactured housing park for his or her employees. Nor does it apply to manufactured housing communities that are cooperatively owned by the residents.

Two national associations play a prominent role in manufactured housing policy. The Manufactured Housing Institute³ is a national trade industry group that, among other functions, performs research on issues of importance to businesses involved with manufactured housing, including manufactured housing community owners. The AARP (formerly known as American Association of Retired Persons), in concert with the National Consumer Law Center, is active in addressing manufactured housing community issues from a tenant perspective. In 2004, AARP produced a model manufactured housing landlord-tenant act, and compared existing state statutes against it.⁴ The Manufactured Housing Institute has not produced a similar model nor conducted a review of state statutes.⁵

1 Manufactured Housing Community Tenants: Shifting the Balance of Power, A Model State Statute, revised edition, AARP Public Policy Institute, 2004. One state, Wyoming, that does not have a manufactured housing landlord tenant law, does have rules that address this issue.

² In this report, “manufactured housing” or “manufactured home” is used to refer to all housing covered under the act – manufactured housing, mobile homes and modified recreational vehicles being used for permanent housing. Likewise, “manufactured housing community” is used in lieu of “mobile home park” to refer to all entities covered by the act. “Resident” is generally used to refer to an owner of a manufactured home who rents lot space in a manufactured housing community.

³ Manufactured Housing Institute: http://www.manufacturedhousing.org/about_us/default.asp

⁴ Manufactured Housing Community Tenants: Shifting the Balance of Power, A Model State Statute, revised edition, AARP Public Policy Institute, 2004.

<http://www.aarp.org/research/housing-mobility/affordability/aresearch-import-871-D18138.html>

⁵ Telephone communication, December 5, 2005.

The Manufactured/Mobile Home Landlord-Tenant Act is relatively comprehensive in scope, addressing 31 of the 42 issues referenced in the 2004 AARP model manufactured housing landlord-tenant statute.⁶ Among key provisions of the Washington Act are the following:

- **Leases:** A written lease is required. A one-year lease must be offered and renewals for the term of the original lease are automatic. At renewal, a tenant who is not on a year lease may choose to convert to one. All fees and park rules must be disclosed in the lease, as well as the utilities, services, and facilities that will be provided.
- **Rent:** Rent can be increased when the lease is renewed as long as three months notice is given to the tenant.
- **Duties of the Landlord:** Duties of the landlord are described. They include requirements that the landlord maintain, and keep clean and sanitary common space within the park including roads, utilities, and permanent structures such as sheds or carports, including those located on leased space. The landlord is also required to respect the privacy of tenants and has limited right to enter their homes without permission.
- **Duties of the Tenant:** Tenant responsibilities are also specified. They include maintaining a clean, sanitary home and lot and proper disposal of garbage. Nuisances, drug-related activities, and negligent or willful damage to the landlord's property are prohibited.
- **Park Rules:** Park rules must be reasonable, be enforced uniformly, and cannot violate the law.
- **Fees:** Certain fees are prohibited. Fees cannot be charged for a live-in care provider, for guests of two weeks or less, or for guest parking unless the stay is extended. Nor can there generally be charges for moving into or out of a community (entrance⁷ or exit fees).
- **Eviction:** A tenant can be evicted for a just cause only. Non-payment of rent and substantial or repeated violation of rules are among the just causes listed, as are failure to comply with local ordinances, or state laws and rules, engaging in criminal activity, disorderly conduct, and creating a nuisance. For various causes, the tenant must be given a set period of time to cure the problem. Retaliatory eviction is prohibited.
- **Notice of Conversion:** Landlords are required to give 12 months notice if tenants will no longer be able to live in a park because it is closing or being converted to another use.

⁶ The Washington Act provides similar protection to the AARP model statute in 19 areas, offers lesser protection (for example, the right to a one-year, rather than two-year lease) in an additional 12 areas, and does not address 11 areas in the model act.

⁷ Entrance fees may be charged if the park is part of a continuing care community.

- **Sale of a Manufactured Home in a Park:** If a manufactured home in a community is sold, the owner must be notified in advance, and has a right to approve or disapprove the new homeowner as a park tenant on the same basis as any other tenant. The landlord may not unreasonably deny approval to transfer the rental agreement.

B. Office of Manufactured Housing

Duties and Funding: The Office of Manufactured Housing (OMH) was created by the Legislature in 1988 to address the concerns of manufactured housing community owners, homeowners, and the industry. The office serves as a resource and information center for manufactured housing issues throughout the state. As of January 2005, OMH had seven full-time employees (FTE). The OMH delivers a complex set of services. All current programs depend on revenue from fees assessed on the production, placement, and sale of manufactured housing. Service levels, therefore, have fluctuated along with the industry. In the 2003-2005 biennium, OMH expenditures totaled \$1,491,327, over a third of which was distributed as relocation assistance to manufactured home owners displaced by park closures.

Requests for assistance continue to increase due in part to innovations that have made manufactured housing more attractive, and in some cases indistinguishable from site-built housing. As interest grows in affordable housing solutions, it is assumed that manufactured housing options and opportunities will also increase. Simultaneously, however, rising land values in urban areas create pressure for the sale and closure of older manufactured home communities. Low-income manufactured home owners displaced by the elimination of a community often need financial help to relocate.

Funding for the work of OMH comes primarily from a \$15 fee paid each time the ownership of a manufactured home is transferred. Depending upon the fluctuating sales of homes, the fee has over the past four years generated an average of \$275,710 annually. Revenue from the \$15 fee supports the Ombudsman Services (1.5 FTE), the Manufactured Home Construction Complaints/SAA Program (1.25 FTE), and the Relocation Assistance Program (.5 FTE).

Sources of revenue for OMH services are:

- **Installer Program:** Fees paid for classes, certification renewals, and sales from required installation tags. Fees have generated over the past four years an average of \$67,904 annually.
- **Manufactured Home Construction Complaints/SAA:** A \$2.50 fee paid by factories for manufactured home floors produced in Washington and a \$9.00 fee for those shipped into the state. Fees have generated over the past four years an average of \$62,135 annually.
- **Mobile Home Relocation Assistance:** A \$100 fee beginning January 2003 paid by the purchaser when a manufactured home is bought in a manufactured housing community. Fees have generated a monthly average of \$42,941 over the past thirty months.

Prior to the passage of ESHB 1640, responsibilities of the office, described in 59.22.050 RCW, include the following four distinct programs:

- **Training and certification of individuals who install manufactured homes**⁸ In 2005, OMH trained and certified 103 installers, adding to the current total of 860 individuals trained and certified to install homes in Washington state. The OMH offers 5 two-day training sessions in locations around the state, and trained 728 installers during the 2003-2005 biennium. OMH develops, monitors, and coordinates the Installer Training and Certification Program; a Factory Assembled Structures Specialist from the Department of Labor and Industries is on contract to provide classroom training. Technical assistance is provided to installers, building inspectors, and retailers.
- **Manufactured Home Construction Complaints/State Administrative Agency (SAA)** OMH administers this Federal program on behalf of the Department of Housing and Urban Development (HUD) to ensure investigation and correction of construction problems. Staff responded to 640 requests for help in the 2003-2005 biennium, providing problem solving and technical assistance.
- **Mobile Home Relocation Assistance** is provided to manufactured homeowners who must relocate due to park closures. Homeowners being evicted from closing parks receive counseling, technical assistance and application information, eligibility determination and financial assistance. The Relocation Assistance Fund reimburses homeowners for the costs to relocate their home and/or for down payments to purchase a new or pre-owned home. During the 2003-2005 biennium, 102 eligible households were aided with a total of \$504,405 disbursed in grants. Between August and December 2005, 15 mobile home parks notified residents of their intent to close due to redevelopment or conversion to another use.
- **An Ombudsman Service** to help with disputes between manufactured housing community owners and managers (landlords or owners) and the manufactured homeowners (tenants or residents) who rent space from them. In 2004, the office received an estimated 700 requests for assistance with landlord-tenant disputes.

Due to limited resources, staff performed no on-site visits to parks, and, with the exception of cases dealing with evictions or health and safety issues, infrequently contacted the other party to negotiate improvements. Casework was limited to clarifying problems, assessing safety and health issues, coaching about notifying the other party to the dispute, referring to local resources such as health departments or dispute resolution centers, and providing public education materials, laws and regulations.

While all complainants received assistance, in-depth casework and true dispute resolution were extremely limited given staff capacity. Documentation of activity on complaint cases and data tracking were carried out primarily by hand tabulation of hard copy files.

⁸ The Washington State Department of Labor and Industries establishes manufactured housing installation code and standards.

One staff person was dedicated to this function; however the position managed the Relocation Assistance Program simultaneously until January 2005. One additional staff person was hired at that time and dedicated entirely to landlord-tenant complaints, bringing the total staff for this work to 1.5 FTEs.

Pre -ESHB 1640 Operating Environment: The OMH works closely with representatives of both park residents and park owners/managers to resolve disputes. The Manufactured Housing Communities Issues Committee, an informal stakeholder group convened by OMH, has met monthly since 1994, providing valuable insights and information to CTED regarding manufactured housing community landlord-tenant issues and relocation assistance efforts.

The Washington chapter of Mobile Home Owners of America, an association of mobile home park residents, provides assistance and advocacy for its 1,800 members. Mobile Home Tenants Association, a smaller group, also assists its members with disputes. Likewise, Manufactured Housing Communities of Washington, an association of manufactured housing community owners, advises and advocates for its 600 members, including offering a model lease. Columbia Legal Services assists mobile home park residents, primarily low-income seniors and individuals with special needs, with landlord-tenant disputes, giving highest priority to evictions.

While its Ombudsman function includes explaining existing landlord-tenant laws and regulations and helping complainants make action plans for resolving disputes, the OMH has no formal responsibility related to, or authority to enforce, the Manufactured/Mobile Home Landlord-Tenant Act. Health and sanitation rules for manufactured housing communities, adopted by the State Board of Health under RCW 59.20, can be enforced by local public health jurisdictions, which are authorized in statute to levy fines of up to \$100 per violation per day. For issues beyond health and sanitation, manufactured housing community residents who cannot resolve disputes with landlords must seek relief through the legal system.

C. 2005 Legislation

In 2004 and 2005, the Legislature considered – but did not pass – legislation to create an administrative mechanism for enforcement of the Manufactured/Mobile Home Landlord-Tenant Act and unfair practices (prohibited by the Consumer Protection Act, Chapter 19.86 RCW) that arise in manufactured housing communities. The enforcement legislation proposed in 2005, the original version of HB 1640 and a companion Senate Bill, are described briefly in Appendix A.

Instead, the Legislature adopted ESHB 1640 (Chapter 429, Laws of 2005), which went immediately into effect by signature of the governor on May 13, 2005. The new law was in effect for seven and a half months. With two very limited exceptions ⁹ all provisions sunset on

⁹ ESHB 1640, Sec. 10 reads as follows, “Any amount assessed under section 7(2) of this act that remains uncollected on December 31, 2005, shall be collected under terms of section 7 of this act as it existed before December 31, 2005.” ESHB 1640, Sec.13 reads as follows: “Beginning in January 2006, the state treasurer shall transfer any funds remaining in the manufactured/mobile home investigations account under section 8 of this act to the mobile home affairs account under RCW 59.20.070 for the purposes under RCW 59.22.050. All funds collected by the department under section 10 of this act shall be transferred to the state treasurer for deposit into the mobile home affairs account.”

December 31, 2005. During this window, the existing CTED Ombudsman Service was expanded for specific activities as described in the legislation.

CTED was authorized to “investigate and evaluate”¹⁰ complaints alleging both unfair practices and violations of the Manufactured/Mobile Home Landlord-Tenant Act, to discuss issues with the parties involved or others, to explain options, and to negotiate agreements between the parties. However, the Department was expressly prohibited from making any finding or ruling on whether an unfair practice or violation of the Act has occurred.¹¹

The legislation also directed CTED to “compile the most accurate list possible”¹² of all manufactured housing communities and the number of lot sites within them subject to the Manufactured/Mobile Home Landlord-Tenant Act, and to collect registration fees from each manufactured housing community. The Department is also required to “ensure that notice of the ombudsman complaint resolution program is given to each mobile/manufactured home landlord or park owner and each mobile home unit owner or tenant.”¹³

Finally, the Department is required to submit a summary of its activities under ESHB 1640 to the appropriate committees of the Legislature. The report is to include:

- Complaint statistics;
- A listing of manufactured housing parks, their owners, and the number of individual lots within these parks that are covered by the Manufactured/Mobile Home Landlord-Tenant Act; and
- Recommendations for future action by the Legislature.

The law also speaks to the owners and residents of manufactured housing communities:

- Park residents and owners are prohibited from filing complaints with CTED until they have notified the other party about the problem, and given time for the situation to be remedied.
- Park owners are required to post in a common area an easily visible notice of tenants’ rights and responsibilities, and how to make a complaint to CTED.
- Park owners and residents involved in a complaint are required to cooperate with CTED in an investigation by furnishing documents and providing written explanations as requested, as well as allowing the Department access to inspect park premises as part of a violation investigation.

¹⁰ ESHB 1640, Sec. 3 (3) (b)

¹¹ ESHB 1640, Sec. 3 (7) reads as follows: “After the department has completed its investigation and other duties, the department shall compile a written report documenting the process and resolution of the complaint investigation. Under no circumstances shall the department make or issue any finding, conclusion, decision or ruling on whether there was a violation of chapter 59.20 RCW or 19.86 RCW.”

¹² ESHB 1640, Sec. 6 (1)

¹³ ESHB 1640, Sec. 3 (9)

- Manufactured housing communities are required to register and to pay a \$5 per lot site fee to cover the cost of the expanded Ombudsman Service, and registration and notification drive. No more than half of this fee can be passed on to residents.

Appendix B contains a more detailed description of the provisions of ESHB 1640, as well as the legislative findings and intent.

III. IMPLEMENTATION OF ESHB 1640

The Department of Community, Trade and Economic Development (CTED) worked with stakeholders, local governments, and other state agencies to compile a complete and accurate list of parks and lots subject to ESHB 1640, to notify residents and park owners, and to respond to an increased volume of complaints with new information and investigations. The time available under the new law – seven and a half months from the effective date to the expiration date – presented challenges. As required, staff began notifying complainants of the new law immediately after it was signed. Simultaneously, and as quickly as possible, new procedures and data collection systems were developed and implemented.

The Manufactured Housing Communities Issues Committee continued to provide helpful information and perspectives to CTED regarding implementation of ESHB 1640. The focus of this monthly meeting of stakeholders shifted from working to address specific problem situations raised by members, to reviewing draft forms, analyzing data, collecting notification materials to distribute and generally providing feedback on the new effort. A listing of committee members is in Appendix F.

The majority of tasks required under ESHB 1640 fit well with existing Office of Manufactured Housing (OMH) capacity. Technical and human resources in place included:

- A toll-free 1-800 automated services request line already in operation, publicized in educational materials and telephone directories, and distributed to state agencies and industry associations.
- An existing case management database and publications clearinghouse for landlord-tenant complaints.
- Existing staff trained in negotiation and experienced with conflicts between manufactured housing community residents and owners.

However, agency commitments already in progress as well as office space and resource limitations created some difficulties. Key responsibilities, such as requiring park owners to register their parks, pay a fee, and requesting statewide county assessors to submit their mobile home park records, had not been attempted by a state agency before, and required thoughtful strategy and cooperation from other entities. The primary challenges were: developing an automated information system needed to track and manage data; developing an effective and efficient means of meeting the notification, registration, and fee requirements within the time allowed under the new law; and hiring and training staff with the requisite skills needed to implement case management as prescribed by the new law.

While efforts to recruit and hire new staff were underway, existing staff began work to obtain park owner addresses for registration and fee billing. They worked on database development, began design of the 12 new required forms, requested addresses of manufactured housing communities from county assessors' offices, and remodeled office space for new employees.

Emergency 30-day hires were used and contracts were issued for low-risk tasks, such as producing mailing labels and mailing notifications. Four new temporary employees were hired between August and September to assist in carrying out the work outlined by ESHB 1640. The new positions were project manager, case manager, intake specialist, and administrative assistant.

A. Park List and Registration

The Department was directed to compile the most accurate list possible of all manufactured housing communities in the state, the names and addresses of the owners of these communities, and the number of lot spaces subject to chapter 59.20 RCW located in each manufactured housing community. The Department had created a list of park residents and contacts in 1998. However, ESHB 1640 also stipulated that the Department must compile a count of lot sites, and this had never before been attempted. Identifying actual owners of manufactured housing communities, rather than resident managers, proved difficult in some cases.

A complete and accurate mailing list was necessary in order to notify community owners about the new law, as well as to register them, and collect the required fee. The Department also needed to request from each community owner a listing of addresses of lots within their park in order to notify park residents.

The Department sought and received assistance from the following organizations to compile a more accurate listing of likely manufactured housing communities:

- County Assessor offices
- Department of Revenue
- Mobile Home Owners of America (MHOA)
- Manufactured Housing Communities of Washington (MHCW)
- Individual park owners and residents

County assessors were sent a July 11, 2005 request for addresses of parks within their jurisdiction. Information from county assessors proved to be the largest source of information about parks. A comparison of the OMH 1998 park contact list against the records being received from local assessors' offices raised serious concerns. The list was out of date and full of multiple addresses for the same park. Consultation with the Assistant Attorney General and local officials led to the conclusion that it was essential to create an accurate list of owners prior to mass mailings in order to avoid confusion and a perception of unequal treatment among those required to register and pay fees.

The formal notice outlining tenant rights and responsibilities, the registration form, and the complaint process were developed during June and July. By August 22, an updated list of likely manufactured housing communities had been compiled and all required written materials designed. On this date, notification about their responsibilities under the new law and the registration process was mailed to 2,400 individuals believed to be owners of manufactured

housing communities subject to RCW 59.20. The registration materials were also posted on the CTED website. Registration materials (and complaint form information) were made available in Spanish. A registration certificate was designed and mailed to registered parks. Appendix C includes the mailing contents, registration form and registration certificate.

Of the initial mailing to 2,400 parks, 445 were returned undeliverable, likely invalid addresses. The remaining parks continued to receive notification from the Department about the registration process. The Department also responded to over 600 contacts (via telephone, email, and in person) from park owners and residents with questions about the registration process.

CTED continued to modify the list of parks and to mail registration material to newly identified parks on an individual basis as information became available, through complaints received or from work with stakeholder groups and local governments. For example, six parks were first added to the park list when CTED received complaints associated with them – they had not appeared on assessors' lists nor been known to park owner or park resident associations. As of November 30, the number of parks on this list totaled 2,106 and the total number of parks registered was 1,175 (56%). Registration fee revenues collected totaled \$279,260. Registered parks range in size from two to 408 spaces with an average of 47 spaces per park.

Park List Data as of November 30, 2005*

Number of parks on initial park list (2,400 with complete addresses)	2,855
Number of parks on current list (presumed to meet definition of 59.20 RCW)	2,106
Number of initial notifications returned (445 returned, new addresses obtained and second mailing attempt for 89)	356
Number of parks removed from park list (duplicate listing, park was closed, not a park as defined by 59.20 RCW)	393

* Additional data collected in December 2005 will be reported January 10, 2006.

Registration Data as of November 30, 2005*

Number of parks on current list (presumed to meet definition of 59.20 RCW)	2,106
Number of parks registered	1,175
Percentage of parks registered (1,175 of 2,113)	56%
Number of spaces registered	55,852
Average spaces per registered park	47
Amount received in registration fees (\$5 per space)	\$279,260

* Additional data collected in December 2005 will be reported January 10, 2006.

Number of Parks by County

As of November 30, 2005

Additional parks registered in December 2005 will be reported January 10, 2006.

County	Parks Registered	Number of Spaces	Parks No Response	Total Parks
ADAMS	8	405	3	11
ASOTIN	14	437	4	18
BENTON	44	2932	19	63
CHELAN	21	653	16	37
CLALLAM	35	1240	23	58
CLARK	54	3681	28	82
COLUMBIA	2	45	4	6
COWLITZ	22	1314	19	41
DOUGLAS	12	525	15	27
FERRY	9	132	3	12
FRANKLIN	10	718	7	17
GARFIELD	0	0	2	2
GRANT	46	1580	43	89
GRAYS HARBOR	40	1186	22	62
ISLAND	15	602	13	28
JEFFERSON	6	214	7	13
KING	99	8408	97	196
KITSAP	32	1799	17	49
KITTITAS	15	365	11	26
KLICKITAT	7	131	8	15
LEWIS	67	1068	55	122
LINCOLN	5	69	5	10
MASON	10	322	17	27
OKANOGAN	21	405	30	51
PACIFIC	5	58	11	16
PEND OREILLE	4	47	4	8
PIERCE	160	6847	101	261
SAN JUAN	1	80	2	3
SKAGIT	27	1305	22	49
SKAMANIA	5	161	7	12
SNOHOMISH	93	5503	63	156
SPOKANE	77	4069	65	142
STEVENS	18	401	20	38
THURSTON	71	3084	66	137
WAHKIAKUM	3	87	0	3
WALLA WALLA	12	922	1	13
WHATCOM	42	1510	46	88
WHITMAN	7	410	12	19
YAKIMA	56	3137	43	99
TOTALS	1,175	55,852	931	2,106

Registered Parks by County

As of November 30, 2005

Additional parks registered in December 2005 will be reported January 10, 2006.

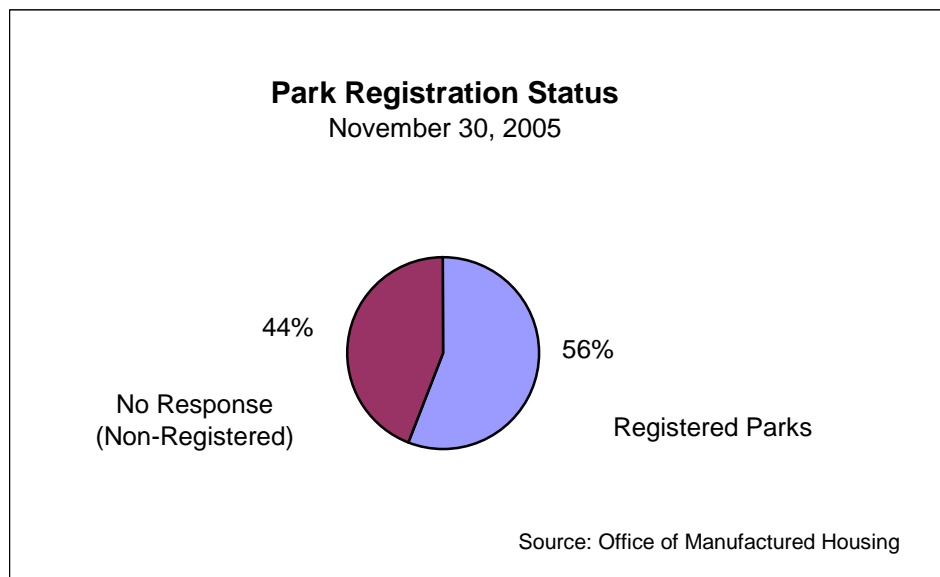
County	Parks Registered	Number of Spaces	Average Number of Spaces per Park
ADAMS	8	405	51
ASOTIN	14	437	31
BENTON	44	2,932	67
CHELAN	21	653	31
CLALLAM	35	1,240	35
CLARK	54	3,681	68
COLUMBIA	2	45	23
COWLITZ	22	1,314	60
DOUGLAS	12	525	44
FERRY	9	132	15
FRANKLIN	10	718	72
GARFIELD	0	0	0
GRANT	46	1,580	34
GRAYS HARBOR	40	1,186	30
ISLAND	15	602	40
JEFFERSON	6	214	36
KING	99	8,408	85
KITSAP	32	1,799	56
KITTITAS	15	365	24
KLICKITAT	7	131	19
LEWIS	67	1,068	16
LINCOLN	5	69	14
MASON	10	322	32
OKANOGAN	21	405	19
PACIFIC	5	58	12
PEND OREILLE	4	47	12
PIERCE	160	6,847	43
SAN JUAN	1	80	80
SKAGIT	27	1,305	48
SKAMANIA	5	161	32
SNOHOMISH	93	5,503	59
SPOKANE	77	4,069	53
STEVENS	18	401	22
THURSTON	71	3,084	43
WAHKIAKUM	3	87	29
WALLA WALLA	12	922	77
WHATCOM	42	1,510	36
WHITMAN	7	410	59
YAKIMA	56	3,137	56
TOTAL	1,175	55,852	

A verified list of parks is clearly a work in progress.¹⁴ Some parks covered by the law have yet to respond to mailings and are not registered as required by the law. For example, from May 13, 2005 through November 30, 2005, OMH investigated complaints alleging violations of the Manufactured/Mobile Home Landlord-Tenant Act associated with 91 parks. Of these 91 parks, only 65 had registered as required by law as of November 30, 2005.

A community is removed from the park list if OMH receives information indicating it is not covered by the law for any of the following reasons:

- It is an RV park or otherwise not covered by 59.20 RCW.
- It was a manufactured housing community, but is now closed.
- It was a duplicate listing.

Two lists are included as Appendix D. The first is manufactured housing communities that have registered, and the number of site lots each has that are subject to the Manufactured/Mobile Home Landlord-Tenant Act. The second list is of communities that have not registered as required, but are believed to be subject to the Act.



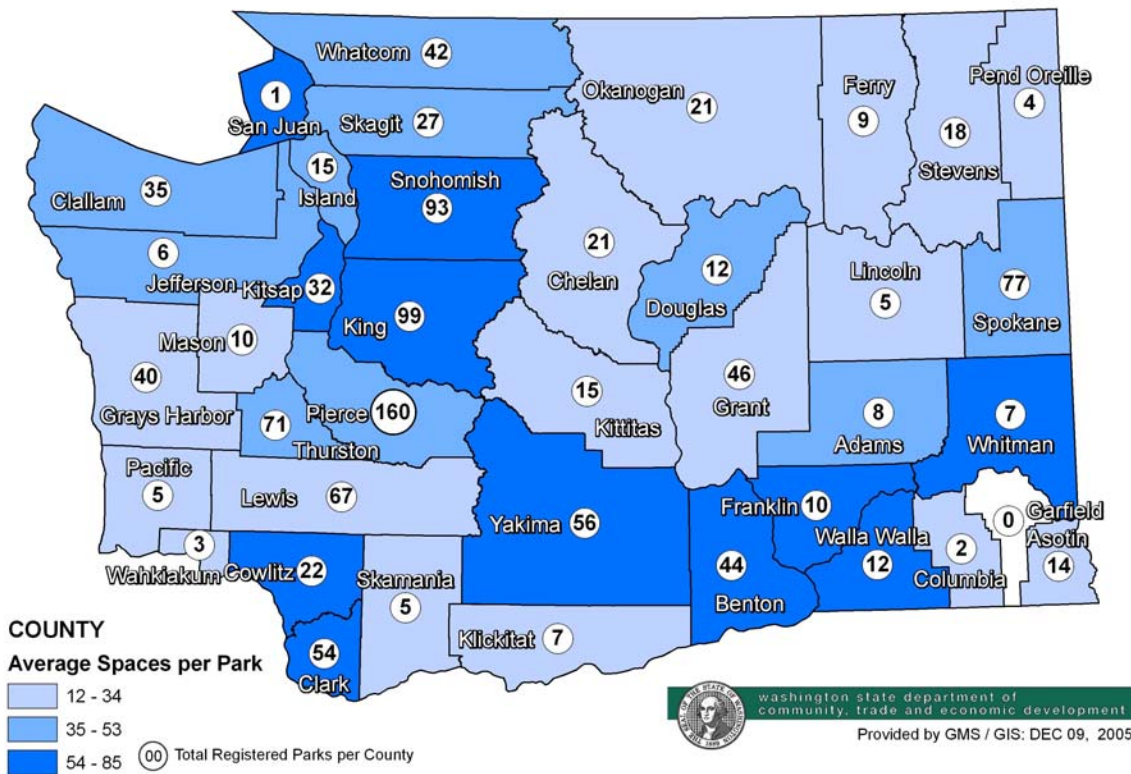
¹⁴ Staff from the State of Florida, Department of Business and Professional Regulation, which has required registration of manufactured housing communities for more than five years, note that they continue to add to their list of communities, often based on manufactured housing landlord tenant complaints they receive.

Park Registration Timeline

Information requested from county assessors	July 11, 2005
Registration information sent to 2,400 parks	August 22, 2005
Responded to over 600 registration questions	August - December
Second notice sent to 1,442 unregistered parks	November 18, 2005
Initial deadline to register	November 21, 2005
Third notice sent to 953 unregistered parks	
(Deadline to register without late fees ¹⁵ extended to December 31, 2005)	December 5, 2005

Office of Manufactured Housing

Size of Registered Mobile Home Parks by County: November 30, 2005



¹⁵ CTED extended the deadline to register without applying late fees because of an issue associated with the fees that CTED believes was not intended by the legislature: ESHB 1640 called for CTED to assess late fees at the "prevailing interest rate for superior court judgments" which is 12 percent annually. First, a park owner's registration fee is unknown until he or she initially registers, so assessing late fees is a two-step process. The owner must first register the park, specify the number of lots, and pay the standard fee of \$5 per lot space. Only then can CTED calculate and bill for late fees. Second, late fees are very small. For example, if a park has 20 lot spaces, the registration fee is \$100. Based on the annual rate of 12 percent, a park owner would owe three cents each day payment is late (The park registration fee, multiplied by 12 percent, divided by 365 days a year, multiplied by the days the fee is late.)

B. Notification Campaign

To ensure that notice was given to each manufactured/mobile home landlord or park owner and each mobile homeowner or tenant, OMH focused notification efforts in five areas:

- Direct mailings
- Websites and electronic mail
- Personal contact and phone calls
- Newspapers and newsletters
- Radio announcements

Because only manufactured homes that are owned by the resident and located within a community of two or more on land owned by a landlord are covered under Chapter 59.20 RCW, it was determined that the best method for notifying residents was to obtain their mailing address from the park owner. Park owners were asked to provide the mailing address for each lot subject to the act. The only way for CTED to know if a home is covered by Chapter 59.20 RCW is if the landowner, park manager, or resident describes the living arrangement that matches the RCW definition. Some stakeholders recommended that the Department distribute leaflets in manufactured housing communities throughout the state to notify residents. The Department considered this recommendation and was concerned that leafleting could not be targeted to only those residents covered by the law. It would also reach individuals who are not covered by the act because they:

- Rent their home as well as their lot from the community owner;
- Live in a manufactured housing community provided by their employer;
- Live on property they own themselves;
- Live in a cooperatively owned community; or
- Live on property owned by another but not within a community of two or more homes.

After legal consultation, CTED determined leafleting was unfeasible and inappropriate due to the combination of uncertainties about which homes within any given park were covered by the act, risks associated with entering private property uninvited, the need to contract out the task, and the lack of quality control associated with contracting on such a large scale.

Direct mailings: As described above, on August 22, 2005 a total of 2,400 park owners were notified of new requirements, including registration and payment of the required fee. Subsequent efforts, described in detail later, have been made to contact those who have not responded. All park owners were also sent a mailing list form requesting that they provide the mailing addresses¹⁶ of the manufactured home lot sites they were registering. As of December 23, over 21,000 resident addresses have been provided and OMH has sent notification to each resident address. Mobile Home Owners of America (MHOA) members provided the Department with its mailing list and the Department mailed notification to all 1,859 members. MHOA members also collected addresses and the Department mailed direct notification to each

¹⁶ For privacy reasons, the Department asked for addresses, but not names, of residents.

address provided. In addition, stakeholders were provided over 5,000 notices to distribute to residents.

Personal contact and phone calls: Since May 13, the office has received a total of 545 requests for landlord-tenant services. Calls are received through a toll-free automated services request line. In response to an increase in calls, the Department improved the toll-free line by shortening the intake message and also by providing the menu in both English and Spanish. Each complainant was mailed direct notification of the program and the new law. The Department also responded to over 600 (via telephone, email, and in person) contacts from park owners and residents with questions about the registration process.

Newspapers and newsletters: A press release was sent to a total of 84 daily and weekly newspapers throughout Washington on September 22, 2005 (see Appendix E). The press release was posted on the Access Washington home page on September 23, 2005. Additionally, at the recommendation of a stakeholder who noted that many veterans live in manufactured housing communities, the press release was posted on the Department of Veterans Affairs home page. The press release was also sent to stakeholders and interest groups.

Websites and electronic mail: OMH posted all ESHB 1640 information on its website, including a link to the bill, the resident notice, and the registration form. The website also includes a link to the forms in Spanish. As of November 30, the website received 1,411 contacts.

Radio announcements: On November 22, a public service announcement was sent to 12 radio stations. The Department chose specific stations, targeting counties with the most mobile home parks and the fewest Mobile Home Owners of America (MHOA) members.

C. Dispute Investigations

CTED was required to investigate alleged unfair practices or violations of the Manufactured/Mobile Home Landlord-Tenant Act, 59.20 RCW. The Department was also required to negotiate agreements and document outcomes. The Department developed a database to track the number of complaints received, issues, and outcomes. Complaints were received from a toll free phone line, through the postal service, by e-mail and, occasionally, delivered to staff in person.

This section includes the following complaint data collected May 13 – November 30, 2005:

1. Number of Complaints
2. Requests for Services by Month
3. Nature and Extent of Complaints
4. Actions Taken on Each Complaint
5. Outcomes of Closed Cases
6. Closed Cases: No Agreement Reached - Reasons

1. Number of Complaints Received May 13, 2005 – November 30, 2005

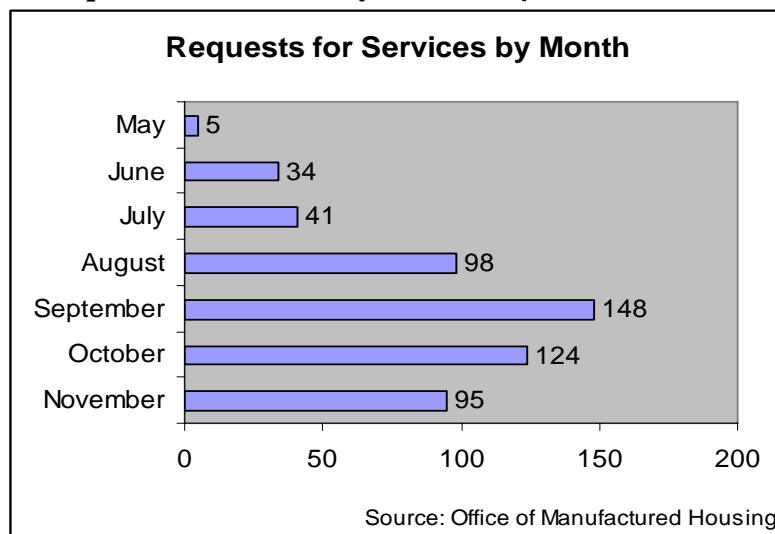
Complaints Received (Number of Complainants) Complainants often report more than one issue. Of the 172 complaints under investigation or completed, a total of 709 issues were reported and investigated. Complaints are defined by ESHB 1640 as the complainant provided documentation that the other party had been notified and that timeframes to remedy, 59.20 RCW have been met. (131 completed investigations plus 41 current investigations underway = 172 total complaints)	172
Issues Reported Complainants often report more than one issue. Of the 172 complaints received, a total of 709 issues were reported and investigated. The number of issues per complaint ranged from one to ten.	709
Requests for Services Individuals seeking assistance with a landlord-tenant complaint.	545
Complaint investigation on hold pending notification (<i>Open Cases</i>) OMH has notified complainant and sent complaint form. OMH is waiting for documentation that the other party has been notified and that timeframes to remedy, under RCW 59.20, have been met.	360
Complaint investigation underway (<i>Open Complaint Investigations</i>) OMH has received required documentation; timeframes to remedy, 59.20 RCW, have been met; case managers are investigating complaint.	41
Complaint investigation completed (<i>Closed Cases</i>) See chart of Outcomes of Closed Cases.	144
Communities The 172 complaints (709 issues) were associated with 91 parks in 27 counties.	91

* Data collected in December 2005 will be reported January 10, 2006.

The Department is available to assist both manufactured housing community residents and owners. No complaints from park managers or owners were filed as of November 30. However, OMH did receive and respond to informal inquiries and requests for information from some park owners and managers.

The number of requests for service increased as more people became aware of the new law.

2. Requests for Services by Month May 13, 2005 – November 30, 2005



* Data collected in December 2005 will be reported January 10, 2006.

3. Nature and Extent of the Complaints Received* (May 13, 2005 – November 30, 2005)

The 172 complaints received identified the following 709 issues:

ISSUE (alleged in complaints)	OCCURENCES	PARKS**
DIFFICULTIES WITH COMMUNITY MANAGER/OWNER		
	130	25
PARK RULES		
Applied unfairly; retaliatory or discriminatory in nature	118	19
LEASE CONTENT		
Lack of required items or interpretation discrepancies	103	11
PARK MAINTENANCE		
Failure of landlord to perform maintenance	73	22
PARK AMENITIES		
Differing expectations for either use of carports, community room, pool, storage, etc. or payment for their maintenance	60	2
SAFETY HEALTH/HAZARD		
Dangerous trees, overflowing dumpster, standing or contaminated water	38	15
EVICITION		
Fear of eviction or received eviction notice from landlord	33	11
HARASSMENT		
Unfair treatment of landlord, tenant or tenant's family/guests/employees/caregivers	22	11
LOT/HOME MAINTENANCE		
Lack of maintenance by tenant or landlord	18	12
UTILITIES		
Charging utility fee in excess of actual usage; failure to provide utilities as provided in lease agreement	14	5
WATER CONCERNS		
Lack of adequate water pressure, water drainage resulting in standing water	12	5

ISSUE (alleged in complaints)	OCCURENCES	PARKS**
RENT ISSUES		
Lack of proper rent increase notice or increases not identified in RCW 59.20	12	5
PROPERTY/LOT		
Lot boundaries not clearly defined	10	4
WATER ACCESS		
No water hookups on tenant lot; allegations of landlord limiting water usage	7	3
DIFFICULTIES WITH MOBILE HOME RESIDENT	7	3
LACK OF LEASE		
Lot rental without a lease agreement	7	2
RETALIATION		
Retaliatory behavior towards tenant or tenant's family/employee/caregiver/guest (once landlord notified of complaint)	5	4
SEWER PROBLEMS		
Lack of maintenance of sewer/septic system	5	3
RESIDENTIAL LANDLORD-TENANT ACT		
Complainant rents their manufactured home – not covered by RCW 59.20	5	3
DEPOSITS		
Park occupancy deposit questions; failure to return deposit	5	2
ENFORCEMENT/MHLTA		
Lack of enforcement by landlord of RCW 59.20 among park residents	5	1
SELLING HOME PROBLEM		
Landlord hindering efforts to sell tenants home	4	2
WATER QUALITY		
Water does not meet drinking water standards	4	1
FINANCIAL TRANSACTION		
Difficulties selling home or unfulfilled financial agreements	3	1
PARK ZONING/SITING		
Management misusing property zoned or sited for other use or re: fire (parking/building) regulations	2	2
PETS		
Pets allowed in park against rules, or not allowed conditionally (e.g. support animals)	2	1
DISCRIMINATION		
Disparate treatment based on race, religion, marital status, creed, etc.	2	1
SHED MAINTENANCE		
Permanent structure requiring landlord to maintain; landlord's failure to maintain as an amenity or requiring maintenance by resident	1	1
PARK PURCHASE		
Failure to notify of park sale; confusion re: right of first refusal for resident purchase park	1	1
LEASE TRANSFER		
Withholding transfer of lease	1	1

* Data collected in December 2005 will be reported January 10, 2006.
** Park count may be higher due to database start up problems.

The 172 complaints came from 91 communities in the following 27 counties: Adams, Asotin, Benton, Chelan, Clallam, Clark, Cowlitz, Franklin, Grant, Grays Harbor, Island, Jefferson, King, Kitsap, Kittitas, Lewis, Mason, Okanogan, Pacific, Pierce, Skagit, Snohomish, Spokane, Thurston, Walla Walla, Whatcom, and Yakima.

4. Actions Taken on Each Complaint

Two case managers – one with a background in mediation and the other with experience investigating allegations of legal violations for state agencies with administrative enforcement powers – respond to complaints from manufactured housing community residents and owners. They investigate complaints, provide information, and make efforts at conciliation between community owners or managers and one or a group of residents, generally via telephone.

The Department, mindful of the requirement in ESHB 1640 that complainants must first notify the other party about the problem and allow time for remedies, did not investigate complaints until receiving documentation that notification had occurred. Generally, the documentation provided was a copy of a letter sent to the park owner or manager. Not all of those calling with complaints provided this information, and 15 callers indicated a fear of retaliation if they documented the problem to the owner or manager.

Below is a summary of actions taken on each complaint. A detailed report of actions taken on each complaint is included as Appendix G.

Complaint investigation on hold pending notification (<i>Open Cases</i>) OMH has notified complainant and sent complaint form. OMH is waiting for documentation that the other party has been notified and that timeframes to remedy, under RCW 59.20, have been met.	360
Complaint investigation underway (<i>Open Complaint Investigations</i>) OMH has received required documentation; timeframes to remedy under 59.20 RCW have been met; case managers are investigating complaint.	41
Complaint investigation completed (<i>Closed Cases</i>) See chart of Outcomes of Closed Cases.	144

5. Outcomes of Closed Cases May 13, 2005 – November 30, 2005

Agreement reached	12
Partial agreement reached ¹⁷	12
No agreement reached	93
Complainant withdrew complaint	3
Caller could not be reached	9
Determined to be non-1640	10
Information only	5
Total closed cases	144

* Data collected in December 2005 will be reported January 10, 2006.

6. Closed Cases: No Agreement Reached – Reasons May 13, 2005 – November 30, 2005

No response from Community Owner/Manager 81

Tenant provided notice and received no response/remedy. Then, OMH attempted to contact by phone or in writing and received no response, or contacted with a proposed remedy and received no response.

Resident pursuing legal action	4
Community owner pursuing legal action	3
No response from resident	
Resident submitted complaint material but failed to respond to OMH attempts to contact.	3
Resident responsible	1
Resident failed to provide receipt needed for settlement	
Reason unknown/not reported to OMH	1
Total cases closed as “no agreement reached”	93

* Data collected in December 2005 will be reported January 10, 2006.

D. Accomplishments Under ESHB 1640: Improved Systems

As the ESHB 1640 project comes to an end, it is important to note that some of the changes made in the landlord-tenant program will continue as improvements for manufactured housing clients and stakeholders. These improvements include:

- A much more accurate list of manufactured housing communities, which will assist with landlord-tenant dispute resolution efforts as well as help homeowners evicted from closing parks locate a new place to live.
- An improved database with accessible data reports and more descriptive tracking of outcomes.
- A better phone response system featuring simplified and shortened instructions and Spanish-language options, as well as new procedures for monitoring and responding to requests.
- Updated forms for receiving complaints.

¹⁷ “Partial agreement reached,” means some but not all of the issues raised in a dispute were resolved.

- A Spanish language version of the Manufactured/Mobile Home Landlord-Tenant Act and index to the Act.
- Identified directions for partnerships with stakeholders regarding dispute resolution.

IV. COMPARATIVE RESEARCH OF STATES WITH ADMINISTRATIVE ENFORCEMENT

To gather information about possible recommendations for changes to the current Ombudsman Program, the Department of Community, Trade and Economic Development (CTED) looked briefly at how other states enforce their mobile home landlord-tenant acts. CTED used this information to inform a listing of key components needed to administer a dispute resolution program. This list appears in Section V of this report.

The 2004 AARP report compares state statutes against a model manufactured housing landlord-tenant statute. The report notes that in 19 states, mobile home park owners/managers are required to be licensed.

It notes that of the 36 states with a manufactured housing landlord-tenant law, 19 have some form of “state remedy” for enforcement. Of these states, based on information in the report:

- Ten states enforce through the consumer protection division of the Attorney General’s office.
- One state enforces through local government attorneys.
- One state enforces through the courts, but penalties are specified in the statute.
- Two states with statutes that address primarily health and sanitation enforce through the state Department of Health.
- Six states enforce through another state agency or agencies. Of these, Nevada, Florida, Michigan, and Arizona, appeared to have administrative enforcement functions similar to what was contemplated in the original version of HB 1640.

CTED reviewed statutes and was able to contact staff responsible for efforts to resolve manufactured housing landlord-tenant disputes in Nevada, Florida, and Michigan. A summary of statistics for these three states highlights the importance of informal dispute resolution efforts and voluntary compliance:

State	Parks	Lots Subject to Law	Formal Complaints* Per year	Staff Estimates of Formal Enforcement Actions per year
Nevada	448	30,841	92 (plus 300 phone inquiries)	5-10
Florida	2,602**	321,363	381	5***
Michigan	1,162	180,186	142 (plus phone inquiries)	Under 7

* Nevada and Michigan both noted that they handle many more additional phone complaints and inquiries that do not result in a formal written complaint being filed. These callers may receive coaching, information, and referral to local resources.

** Only parks with 10 or more lots are subject to the Florida manufactured housing landlord-tenant statute.

*** Only Florida staff was able to provide exact data on the number of formal enforcement actions.

Nevada¹⁸ As of June 2005, Nevada had 448 manufactured housing parks containing 33,784 lot spaces with 27,030 occupied and 6,754 vacant. Of these lots, 2,943 are park-owned spaces not subject to the Nevada manufactured housing landlord-tenant statute. The Nevada Department of Business and Industry believes they have an accurate count of parks, but that there may be some under-reporting of lots in rural areas. A five-dollar per lot annual fee paid by manufactured housing communities provides approximately \$150,000 per year in funding that covers the cost of dispute resolution and administrative enforcement through the Manufactured Housing Division in the Nevada Department of Business and Industry.

In 2004, the Manufactured Housing Division received 92 formal written complaints regarding landlord-tenant issues and fielded an additional 20 to 30 phone calls per month. Though this information is not routinely tracked, a few years ago Division staff reviewed the outcome of complaints for one year and determined that in almost exactly half the cases they found in favor of the landlord – i.e. that no violation of the statute had occurred – and half in favor of the tenant.

Tenants are not required to notify the landlord about a problem prior to submitting a complaint; the Division accepts confidential complaints and tries to investigate these concerns in a way that preserves anonymity. The program employs two full-time investigators. They go on-site for most investigations – to see the situation, get both sides of the story, and attempt mediation.

Since at least the early 1990s, manufactured housing park managers have been required to take six hours of training annually. The association of manufactured housing communities does the training, with the content specified by the division. Training is offered three times a year in two parts of the state. Division staff believes training is effective in minimizing the number of landlord-tenant disputes.

Division staff note that they levy fines infrequently, an estimated five to 10 times per year, and that most fines are for people failing to take the required education or to pay fees. Once or twice a year, a fine is contested and goes to an administrative hearing. For the most part, they note, owners and managers correct violations of the statute after receiving a letter from the Division directing them to do so.

The statute requires landlords to notify and meet with tenants regarding any proposed rule change or if petitioned to do so by at least 25 percent of tenants. A group representing park residents and owners meets regularly, with facilitation provided by the Department, to address emerging issues in manufactured housing communities by developing consensus legislation.

¹⁸ November 16, 2005 phone interview with Renee Diamond, Administrator, Manufactured Housing Division, Nevada Department of Business and Industry and subsequent email and phone communication with Allen Scott, an analyst for the division. Chapter 118B; Nevada Revised Statute.

Florida¹⁹ As of November 2005, there are 2,602 manufactured housing communities registered with the Division of Florida Land Sales, Condominiums and Mobile Homes. These parks contained 321,363 lot spaces. Only parks with 10 or more lots are subject to the Florida manufactured housing landlord-tenant act and required to register. The Division continues to update their list of parks as complaint calls identify unregistered parks. The Division's landlord-tenant dispute resolution and administrative enforcement work is funded by \$1 of a \$5 per lot annual fee paid by park owners and by an additional \$1 per home fee, levied through the Department of Motor Vehicles and paid by the manufactured home owner.

During the fiscal year ending June 30, 2005, the Division received 381 complaints regarding manufactured housing parks. In just over one-third of these situations, the Division determined they had no jurisdiction. In another third, they found no violation of the statute. In 50 cases (13 percent), the violation was corrected voluntarily. Four issues were in litigation and one consent order was obtained. The remaining cases were listed as withdrawn (15) or miscellaneous (38).

The Division accepts complaints without requiring notification of the landlord, but warns tenants that it is hard to have a complaint remain anonymous unless it is an issue that affects multiple tenants. Investigators handle complaints regarding condominiums as well as manufactured housing – no information was available on the amount of staff time devoted specifically to enforcement of the manufactured housing landlord-tenant law.

Until recently, Division staff did not go on-site for investigations, but they have begun doing so occasionally. They respond to complaints with a phone call within 48 hours and attempt to complete investigations within 90 days. The Division maintains a list of mediators and refers many complainants to them – finding this a useful strategy when there is a dispute that does not involve a clear violation of the law.

Manufactured housing community owners are required to file with the Division and give to tenants a prospectus that covers both park rules and the provisions of the lease. The statute requires that park owners and managers adhere to what is stated in the prospectus.

Michigan²⁰ Michigan has 1,162 manufactured housing communities with 180,186 lot sites in its database of licensed manufactured housing communities. All communities with three or more manufactured housing sites are subject to the Manufactured Housing Commission Act and required to be licensed annually. Manufactured housing communities are also required to be inspected each year.

¹⁹ November 14, 2005 phone interview and e-mail communications with Preston Booth, Director, Division of Florida Land Sales, Condominiums and Mobile Homes, Florida Department of Business and Professional Regulation, and review of Chapter 723, Florida Statutes.

²⁰ November 22, 2005, e-mail communications with Kevin DeGroat, Analyst, Office of Local Government and Consumer Services, Michigan Department of Labor and Economic Growth. "The Manufactured Housing Homebuyers & Resident's Handbook," Michigan Department of Labor and Economic Growth. Michigan Compiled Law, Act 96, Laws of 1987.

During the 2004-2005 fiscal year, the Office of Local Government and Consumer Services in the Michigan Department of Labor and Economic Growth responded to 142 formal written complaints dealing with manufactured housing community landlord-tenant issues. In addition, they handled telephone inquiries that did not rise to the level of a written complaint; the volume of such contacts is not tracked. A portion of the \$45 annual title fee paid by the manufactured home owner funds the work of the Office on resolution of manufactured housing landlord-tenant disputes.

Before the Office will investigate a complaint, the tenant must prove they have notified the park owner in writing and given 15 days for the problem to be rectified. Ten staff are involved in investigating these and other types of complaints, including complaints dealing with the sale and installation of manufactured housing. No information was available about the number of FTE staff devoted specifically to manufactured housing landlord-tenant disputes. When necessary, on-site investigation is done; staff estimate this occurs in fewer than 30 percent of complaints.

Office staff mediate and investigate consumer complaints filed against manufactured housing communities. If, after investigation and correspondence, it cannot resolve these complaints, the Office pursues cases against communities they have found in violation of the statute through an administrative hearing. Respondents confirmed to be in violation by an administrative law judge, or who fail to respond to a determination, are referred by the Office to the Michigan Manufactured Housing Commission, which issues final orders prescribing penalties that may affect the offender's license and right to operate.

The Manufactured Housing Commission, established in 1987, is an 11-member body, appointed by the Governor, which typically meets six times a year. It is composed of tenants, retailers, home manufacturers, community operators, and a representative of banks, local government, and labor. Office staff estimate that penalties are levied in fewer than five percent of complaints.

V. COMPONENTS OF A DISPUTE RESOLUTION PROGRAM

The three state manufactured housing landlord-tenant dispute resolution programs reviewed require the same basic administrative components in order to function successfully. The basic components are:

- **Stable Revenue Source for Services:** A per lot site fee is often used as a stable revenue source essential for consistent service.
- **Registration of Manufactured Housing Communities:** For landlord-tenant dispute resolution, contact information for park owners and managers is essential. Likewise, such a listing, including the number of home lots, is needed if fees based on community size will be assessed to fund the dispute resolution function.
- **Outreach to Tenants/Residents:** Work with the media, required posting in communities, collaboration with park owner and resident advocacy groups, individual notification through leafleting from an accurate park list or obtaining resident addresses and direct mailings, are all options for notifying as many tenants as possible.
- **Phone Mediation:** May include providing information about the law, coaching, contacting the other party to obtain agreements, and referral to local mediation resources.
- **On-site Mediation:** Similar to phone mediation, but the staff member meets face-to-face with disputants at the manufactured housing community.

Mediation focuses on resolution of the dispute to the satisfaction of the parties. In contrast, investigation is aimed at determining whether the law has been violated. Often, informal mediation by staff is a first step in dispute resolution. If efforts to resolve the dispute through mediation fail, a formal complaint is made and investigated.

- **Investigation:** Staff seek information needed to determine whether there has been a violation of statute. Investigation may include requesting and reviewing documents and records, going on-site to inspect, and interviewing parties to the dispute. In enforcement models (see further description below), investigation may require the right to issue subpoenas, administer oaths, and take depositions.
- **Determination of Violations:** At the conclusion of an investigation, staff issue a finding on whether there has been a violation of statute.
- **Notification of Violation and How to Correct:** If it is found that a statute has been violated, the violator is notified of the specific violation in writing and provided with information about how to correct the problem.

Further action after notification of a violation of statute moves beyond encouraging voluntary compliance into the realm of enforcement.

- **Notification of Date by Which Violation Must be Corrected and Penalties for Failure to Correct:** In an enforcement model, the violation notification would also advise that the situation must be corrected, specify the date by which the correction must be completed, penalties for failure to comply, and rights of appeal.
- **Appeal Opportunity:** An opportunity to appeal the agency action, consistent with the Administrative Procedures Act, is provided. Often the appeal is to an administrative law judge.
- **Follow Up to Ensure Compliance:** The party in violation may be required to provide to the enforcement agency notification that the violation has been corrected. Staff may contact the violator if this notice is not received by a deadline. In some cases, staff may do a follow up physical inspection or contact the complainant to see if the situation has been remedied.
- **Penalties:** If the violation is not corrected by the date specified, and no appeal is pending, a penalty may be levied. Penalties may include fines, either set in statute or adopted by rule. They may also include orders to cease a prohibited practice or to make restitution to the individual or group harmed by the violation.
- **Required Training:** Training may be required for those who own or manage manufactured housing communities. Training may be a one-time or annual mandate. Training may cover the requirements of statute, as well as communication and dispute resolution skills.

A requirement for training is distinct from administrative enforcement, but considered as a method for reducing the volume of disputes and violations of statute.

Prior to enactment of ESHB 1640, because of limited resources, the Office of Manufactured Housing (OMH) carried out only a phone mediation function and limited outreach. Under ESHB 1640, work expanded to include registration of communities, extensive notification efforts, mediations, and investigation. At the same time, CTED was prohibited from determining whether a violation of statute had occurred: Section 3 (7) states: "Under no circumstances shall the department make or issue any finding, conclusion, decision, or ruling on whether there was a violation of chapter 59.20 or 19.86 RCW."

VI. RECOMMENDATIONS

The Department of Community, Trade and Economic Development (CTED) was directed to make four specific recommendations to the Legislature. This section is composed of these required recommendations. They are responses to four questions:

1. What changes to law are needed to resolve disputes?
2. What changes should be made to the CTED Ombudsman and investigative program?
3. What resources are needed to retain or improve the CTED program?
4. Should a formal program for administrative enforcement of the Manufactured/Mobile Home Landlord-Tenant Act, including administrative hearings process, be adopted, and, if so, how should it be structured?

A. Recommendation 1: Changes to Law Needed to Resolve Disputes

In order to provide for a more effective dispute resolution service, it is recommended that the following provisions of ESHB 1640 become permanent:

- Both landlords and residents of manufactured housing communities should be given the right to file complaints with the Office of Manufactured Housing (OMH).
- Manufactured housing communities should be required to post notification within the community of tenant rights and responsibilities and information on how to file a complaint with OMH.
- Manufactured housing communities should be required to register and provide information about the number of lots subject to Chapter RCW 59.20. They should continue to be required to pay a \$5 per lot annual fee to support dispute resolution and park registration.
- Manufactured housing community owners, managers, and tenants should be required to continue to cooperate in dispute resolution efforts by providing access to documents and sites by owners, managers, and residents.

The following recommendations, modifying provisions of ESHB 1640, will also help resolve disputes and create a better incentive for prompt registration of manufactured housing communities:

- In order to provide for more timely intervention by OMH and to address fears of retaliation, those submitting complaints should be encouraged but not required to notify the other party. Fifteen park residents contacting CTED between June and November indicated they had not notified the landlord because they feared retaliation. Another five, who did notify, also indicated a fear of retaliation.
- OMH should be authorized to issue an opinion to the parties involved about whether the Manufactured/Mobile Home Landlord-Tenant act has been violated. This finding will

provide some resolution where efforts to reach agreement have failed and may encourage voluntary compliance.

- The late fee provision of ESHB 1640, which does not expire, should be amended to require a late fee equal to 50 percent of the amount due if the fee is received more than 30 but less than 60 days after it is due, 100 percent of the amount due if the fee is more than 60 days late. Using the example of the community with 20 lots, the base fee would be \$100 and late fee would be \$50 if payment is received more than 30 days late but less than 60 days late, and \$100 if 60 or more days late. The current late fees of 12 percent per year mandated under ESHB 1640 are too small to create an incentive for prompt payment. Using the same example as above, a park owner would owe three cents each day payment is late (the park registration fee, multiplied by 12 percent, divided by 365 days a year, multiplied by the days they are late).

The following changes to RCW 59.22.050, duties of the Office of Mobile Home Affairs, are recommended:

- The name of the Office of Mobile Home Affairs in RCW 59.22 should be formally changed to Office of Manufactured Housing to reflect current usage.
- Investigative and mediation duties should be described as in ESHB 1640, Sec. 3, (3), (4), (5), and (7). However, staff should be permitted to make a finding on whether a violation of the Manufactured/Mobile Home Landlord-Tenant Act, RCW 59.20, has occurred.
- To provide some level of confidentiality for individuals who fear retaliation when they seek help in resolving a landlord-tenant dispute, OMH dispute resolution files should be exempted from public disclosure laws and requirements.

Other Possible Changes

CTED recommends the Legislature consider the following options for changes in statute to address perceived ambiguities noted in stakeholder interviews, to respond to issues raised in complaints, and to adopt promising practices from other states.

- **Recreational Vehicles**
Recreational vehicles (RVs) that are intended or modified for permanent or semi-permanent installation and used as a primary residence in a mobile home park are included in the definition of homes covered under the act [RCW 59.20.030 (9) and (10)]. Stakeholders have noted that this definition relies on how the vehicle is used and modifications to the vehicle, such as taking off wheels, which can be reversed. In addition, it was noted that local zoning laws that permit mobile home communities may prohibit RVs. **The definition could be changed to narrow the situations in which an RV is covered by the act, specifying that it applies to RVs being used as permanent housing only in parks where local zoning allows RVs.**

- **Lease Renewal**

RCW 59.20.090 (1) provides that the landlord and tenant may agree that the renewal of the lease will be for a term different from the original one. For example, they may agree that after one year the lease will convert to month-to-month. Stakeholders have noted that a provision to convert in this way is contained within a commonly used lease. Disputes over lease content were the third most frequent complaint issue. **The statute could require that any agreement to convert to a lease term different from the original one be in a separately negotiated document, distinct from the lease.**

- **Entry onto Lot by Landlord**

Under 59.20.130 (7), though the landlord cannot enter a manufactured home without permission, he or she may come onto the lot (“the land upon which a mobile home...is situated”) rented by the mobile home owner without permission under a variety of circumstances. These situations include maintenance of utilities and ensuring compliance with laws, codes and rules. The landlord cannot enter onto the lot for these purposes “in a manner or at a time which would interfere with the owner’s quiet enjoyment.” Stakeholders noted that park manager entry onto home lots is an issue that arises in disputes and can become a form of perceived harassment. **The statute could be clarified to require 24 hours notice for entry onto a manufactured housing lot except in an emergency, consistent with the general landlord-tenant law.**

- **Required Mediation**

Where there is a notice of eviction for violation of park rules, the landlord and tenant are required to submit the dispute to mediation and “participate in the mediation process in good faith for a period of ten days” [RCW 59.20.090 (2)]. The tenant can use the landlord’s failure to participate in good faith as a defense against eviction [RCW 59.20.080 (2)]. However, mediation is a voluntary and confidential process. Local dispute resolution centers will not release information or make findings about whether the parties participated in good faith. In addition, unless the parties agree to something else “industry mediation procedures” are to be used. However, no such procedures exist, so there are no standards for how mediation should be conducted. **To make mediation a more effective tool for resolving disputes about violations of park rules, the statute could be changed to either 1) clarify that any mediator must be a neutral third party or 2) require either the use of Dispute Resolution Centers or other CTED-approved neutral mediator.**

- **No Forum for Tenant Input Regarding Proposed Rules**

Park rules can be changed without an opportunity for tenants to give input. Park rules ranked second among the issues raised in complaints. A forum for discussion before rule changes are implemented might reduce future disputes. Nevada has found it useful to require that owners must meet with tenants prior to a rule change, or on petition of 25 percent of tenants. **Mandating a meeting in advance of a rule change should be considered.**

- **A Standard Lease Year**

A standard lease year option has advantages for both park owners and residents. Rents can be increased only when a new lease starts. One stakeholder noted the complexity of having rent increases go into effect in different months for various tenants. **The statute could allow tenants who arrive in the middle of the lease year a partial-year lease, and then transfer them to the same lease-year as other residents.**

B. Recommendation 2: Changes to Ombudsman and Investigative Programs

CTED recommends that the OMH Ombudsman Program be sustained at the staffing level achieved through enactment of ESHB 1640 (5 FTEs). The reasons for maintaining services at their current level are:

- Demand for services from OMH has increased and is expected to remain at the higher level.
- Park registration work is incomplete, as a substantial proportion of manufactured housing communities required to register have not yet done so.
- Additional data is needed to more accurately assess the need for formal administrative enforcement of the Manufactured/Mobile Home Landlord-Tenant Act.

Database development completed during the time ESHB 1640 was in effect has enabled the Department to better track and report complaint data. Continued work to collect and analyze this information is essential to accurately assess the need for Ombudsman services, assistance with dispute resolution through mediation, formal administrative enforcement, or some combination of all three. Therefore, CTED recommends that OMH continue to track manufactured housing communities, the number, nature, and extent of complaints received, and success in resolving these disputes, as follows:

- Completion of the task to register manufactured housing communities in the state. As of December 23, an estimated 30 percent of the manufactured housing communities (over 500 parks) remain unregistered.
- Continued tracking of manufactured housing communities and the number, nature, and extent of complaints received.
- Continued tracking of the outcomes of investigation and mediation efforts.
- Integration of data developed under ESHB 1640 with other services provided by OMH. For example, determination of parks at risk of closure due to area land usage and property value changes.

Demand for dispute resolution services has increased and is expected to remain high due to:

- The increased visibility of the Ombudsman function as a result of the notification campaign being carried out while the bill was in effect has resulted in higher demand for services than prior to enactment of ESHB 1640. In 2004, OMH received an average of 58 requests for services per month. Between May 13 and November 30, 2005 under ESHB 1640, an average of 91 requests per month were received.
- Expiration of the requirement that the other party be notified prior to filing a complaint with OMH and CTED's proposed continuation of the requirement that manufactured housing communities post information about how to file a complaint will result in a continued high demand for OMH Ombudsman staff services. As of November 30, 360 investigations were on hold because CTED had not received notification that the complainant had notified the other party and allowed time for the situation to be remedied, as required under ESHB 1640.
- Specific, but limited, increases in mediation services are warranted at this time in order to measure what is possible with the resources collected as a result of ESHB 1640. More time is needed to collect information and data to determine the appropriate mix of services that work best for Washington State manufactured housing communities and residents of those communities.

The hybrid model of ESHB 1640 – in which CTED is authorized to investigate complaints but is prohibited from making a finding on whether there has been a violation of the law – has provided manufactured housing community residents greater access to conciliation, information, and coaching. Yet, evidence suggests that more disputes could be brought to resolution if discussion and dialogue could occur with both parties. Therefore, CTED recommends the following dispute resolution services be provided:

- **Registration of Manufactured Housing Communities**
- **Outreach to Tenants/Residents** through collaboration with park owner and resident advocacy groups.
- **Phone Mediation:** Includes providing information about the law, coaching, contacting the other party to assess negotiability and obtain agreements, and referral to local mediation resources.
- **On-site Mediation:** Similar to phone mediation, but the staff member meets face to face with disputants at the manufactured housing community.
- **Information Collection:** Staff should seek information needed to determine whether there has been a violation of statute, including requesting and reviewing documents and records, going on-site to inspect, and interviewing parties involved in the dispute.
- **Determination of Violations:** At the conclusion of an investigation, staff should provide both parties with their expert opinion, based on written findings and conclusions, as to whether or not there is a violation of Chapter 59.20 RCW.

- **Voluntary Training** for owners and managers of manufactured housing communities. Training should cover the requirements of statute as well as basic communication and dispute resolution skills.

Under ESHB 1640, all but the last two services on this list were authorized. Adding the last two components will provide for a strengthened dispute resolution and prevention program, and a better test of the successes and limits of a dispute resolution program that does not include formal enforcement.

It is not recommended that CTED be authorized to enforce Chapter 59.20 RCW. That is, CTED should not have authority to issue subpoenas, administer oaths, take depositions, establish or exact penalties, or create appeal processes for determinations where staff have found that there may be a violation of statute.

C. Recommendation 3: Resources Necessary to Retain or Improve the Program

Continued work to collect and analyze information is essential in order to accurately assess the need for Ombudsman services and assistance with dispute resolution through mediation. The volume of requests for Ombudsman services has increased and is likely to remain high. The work of registering parks is still underway. Fee funding to support enhanced staffing to perform these task expired December 31, 2005. Dispute resolution services at levels appropriate to meet current and projected demand cannot be sustained beyond June 2006 unless an annual fee per lot is sustained. Therefore, CTED recommends that the fee level established under ESHB 1640 be reinstated at the current \$5 per lot site level.

Using data collected through November 30, 2005, it is reasonable to assume that a \$5 per lot annual fee will generate enough revenue to sustain the following level of staffing and servicing:

- Three dispute resolution specialists (case managers) to provide telephone conciliation or on-site mediation as needed, investigate formal complaints, determine violations and notify violators, negotiate agreements, document activities and outcomes in the database, provide follow-up, and provide park manager/owner training.
- One intake specialist to provide “live” complaint screening and direct customer assistance, as opposed to the current practice of customers leaving messages on the automated services request line. Owners and residents would receive immediate assistance, which can be critical for time-sensitive problems such as evictions. The intake specialist would also enter all incoming complaints into the database.
- One administrative assistant to maintain and update the listing of parks and lots, park owners and managers, to track compliance with training and fee requirements including sending notification of requirements and delinquent status, and to respond to inquiries from park owners and managers regarding these issues.

CTED is committed to training, cross-training, and supervision of staff needed to ensure the maintenance of a high level of customer service and the integrity of data collected.

D. Recommendation 4: State enforcement of the Manufactured/Mobile Landlord-Tenant

CTED recommends against the adoption of state enforcement of the Manufactured/Mobile Home Landlord-Tenant Act at this time. Although the volume of complaints clearly demonstrates the demand for state assistance, particularly as reflected in the number of unresolved complaints, CTED believes that dispute resolution services can resolve many of these complaints without formal enforcement.

OMH should continue work to develop and maintain a list of manufactured housing communities and lot-sites and to collect and analyze complaint data, as well as results achieved through dispute resolution services as recommended in this report. This information is essential to make an accurate assessment of what level of enforcement may be necessary and advantageous to protect vulnerable people and reduce the expense of litigation for park owners and residents.